

Memorandum of Decision Number: 01-20210063R
Indiana Individual Income Tax
For The 2016 Tax Year

NOTICE: IC § 4-22-7-7 permits the publication of this document in the Indiana Register. The publication of this document provides the general public with information about the Indiana Department of Revenue's official position concerning a specific set of facts and issues. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this final determination.

HOLDING

Individual demonstrated that he timely filed his 2016 Amended Individual Income Tax Return (Form IT-40X) to claim additional refund.

ISSUE

I. Indiana Individual Income Tax - Claim for Refund - Statute of Limitations.

Authority: IC § 6-8.1-9-1; IC § 6-8.1-6-1; [45 IAC 15-9-2](#).

Taxpayer protests the Department's refund denial of individual income tax for the 2016 tax year.

STATEMENT OF FACTS

Taxpayer is an Indiana resident, who has been a shareholder of an Indiana company. In May 2019, Taxpayer filed his 2016 Amended Individual Income Tax Return (Form IT-40X), requesting an approximately \$3,600 refund. The Indiana Department of Revenue ("Department") reviewed and granted a partial refund. The Department, in an August 9, 2019, letter explained, in part, that it "must reduce the amount to \$639.00 because no Schedule IT-20[REC] or K-1 was attached to provide proof of the Indiana research credit." Taxpayer contacted the Department, providing the K-1 in December 2019.

Subsequently, Taxpayer contacted the Department, inquiring about the remainder of his refund. The Department in December 2020 denied the remainder of Taxpayer's refund. The Department explained:

Indiana Code [§] 6-8.1-9-1(a) requires that a claim for refund of excess withholding or estimated payments must be filed within a 3 year period in order to be refunded excess withholding or estimated payments. This 3 year period generally begins on the due date of the tax return that should have been filed for the period in question. Your claim requesting the refund was not received before the 3 year period had expired. Therefore, your claim . . . has been denied.

Taxpayer protested the refund denial. Taxpayer requested that the Department make the final determination without conducting an administrative hearing. This final determination results based on the information submitted by Taxpayer as well as the Department's records. Additional facts will be provided, as necessary.

I. Indiana Individual Income Tax - Claim for Refund - Statute of Limitations.

DISCUSSION

The Department denied the remainder of Taxpayer's refund claim on the ground that the refund claim was not timely.

In general, if a taxpayer believes that he or she has overpaid the tax, the taxpayer is required to timely file a claim for a refund with the Department. Specifically, IC § 6-8.1-9-1(a), in relevant part, states:

If a person has paid more tax than the person determines is legally due for a particular taxable period, the person may file a claim for a refund with the department. Except as provided in subsections (j) and (k), **in order to obtain the refund, the person must file the claim with the department within three (3) years after the later of the following:**

- (1) **The due date of the return.**
- (2) **The date of payment.**

For purposes of this section, the due date for a return filed for the state gross retail or use tax, the gasoline tax, the special fuel tax, the motor carrier fuel tax, the oil inspection fee, or the petroleum severance tax is the end of the calendar year which contains the taxable period for which the return is filed. **The claim must set forth the amount of the refund to which the person is entitled and the reasons that the person is entitled to the refund. (Emphasis added).**

Additionally, "[i]f the Internal Revenue Service allows a person an extension on the person's federal income tax return, the corresponding due dates for the person's Indiana income tax returns are automatically extended for the same period as the federal extension, plus thirty (30) days." IC § 6-8.1-6-1(c)(1).

[45 IAC 15-9-2](#) further explains, in relevant part, that:

(b) **The department has no legal method of generating a claim for refund. A claim for refund can only be initiated pursuant to [IC 6-8.1-9-1](#).**

...

(d) When filing a claim for refund with the department the taxpayer's claim shall set forth:

(1) the amount of refund claimed;

(2) a sufficiently detailed explanation of the basis of the claim such that the department may determine its correctness;

(3) the tax period for which the overpayment is claimed; and

(4) the year and date the overpayment was made.

**The claim for refund shall be filed on a form prescribed by the department.
(Emphasis added).**

Thus, when a taxpayer determines he or she overpaid tax, as in this case, the taxpayer must timely file his or her income tax return stating the overpayment as prescribed by the Department in order to claim a refund. IC § 6-8.1-9-1(a); [45 IAC 15-9-2](#). The taxpayer also must clearly state "the amount of the refund," "detailed explanation of the basis of the claim such that the department may determine its correctness," "the tax period for which the overpayment is claimed," and "the year and date of the overpayment." [45 IAC 15-9-2\(d\)](#).

In this instance, Taxpayer's documentation demonstrated that he timely filed his 2016 Amended Individual Income Tax Return (Form IT-40X) in May 2019. In addition, Taxpayer provided additional documentation, i.e., K-1, to support the remainder of his claim in December 2019. Therefore, the Department is prepared to agree that Taxpayer's refund was timely.

FINDING

Taxpayer's protest is sustained.

May 18, 2021

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